

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBIN M. LEE,

2:12-CV-884 JCM (GWF)

Plaintiff,

V.

PETER HO, et al.,

Defendants.

ORDER

15 Presently before the court is plaintiff Robin M. Lee's motions for default judgment. Docs.
16 #4 and #7. The defendants have not responded.

17 Default judgment is appropriate “when a party against whom a judgment for affirmative relief
18 is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise.
19 . .” Fed. R. Civ. P. 55. Obtaining a default judgment entails two steps: “first, the party seeking a
20 default judgment must file a motion for entry of default with the clerk of a district court by
21 demonstrating that the opposing party has failed to answer or otherwise respond to the complaint,
22 and, second, once the clerk has entered a default, the moving party may then seek entry of a default
23 judgment against the defaulting party.” *See UMG Recordings, Inc. v. Stewart*, 461 F. Supp. 2d 837,
24 840 (S.D. Ill. 2006). Where a party has not been properly served, there is not basis for a court to
25 enter default judgment. *See Fairly v. Potter*, 2003 WL 402261, *4 (N.D. Cal. 2003).

26 Here, plaintiff Lee has not filed for entry of clerk's default. Accordingly, the motion for
27 default judgment should be denied as premature. Moreover, the record before this court does not

1 reflect that any of the defendants have been served. As such, there is no basis for the entry of default
2 judgment.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motions for
5 default judgment (docs. #4 and #7) be, and the same hereby is, DENIED.

6 DATED June 26, 2012.

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8 **UNITED STATES DISTRICT JUDGE**
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